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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/980,377 | 03/20/2002 | Fabio Longoni | 4925-183PUS | 9743 |
| 7590 | 11/03/2004 | | EXAMINER | |
| Michael C Stuart Cohen Pontani Lieberman & Pavane Suite 1210 551 Fifth Avenue New York, NY 10176 | | | SOBUTKA, PHILIP | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2684 | |

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 09/980,377 | Applicant(s) LONGONI ET AL. | |
| | Examiner Philip J. Sobutka | Art Unit 2684 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-88 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 12-15, 17-21, 26-30, 35-38, 40, 50-53, 55-59, 61-66 and 68-76 is/are rejected.
- 7) ☒ Claim(s) 6, 8-11, 22-25, 31-34, 39, 41-49, 54, 60, 67 and 77-88 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>112801</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,2,4,13-15,17,19,26,50,52,56,58,62,63,65,69,70,73,76, are rejected under 35 U.S.C. 102(e) as being anticipated by Szalajski et al (US 6,275,487).

Consider claims 1,17. Szalajski teaches a method of controlling power with which information is transmitted by a first station to a plurality of second stations on a common channel, different information being intended for different stations, said method comprising the step of transmitting said information in said common channel, wherein information intended for different second stations are transmitted at different power levels (Szalajski see col 2, line 56 – col 3, line 20).

As to claims 2,19, 76, Szalajski teaches the method as in claim 1, wherein the power level with which information is transmitted is selected in dependence on at least one of a parameter of the intended second station and the content of the information (see col 4, lines 27-53, col 6, lines 29-50).

As to claims 4,26, note that Szalajski's information is in the form of data packets (fig 1, col 5, lines 20-40).

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As to claims 13,14,50,56,52,58,62,63,73, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

As to claims 15,65,69,70 note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 3,27,51,57,64, are rejected under 35 U.S.C. 103(a) as being unpatentable over Szalajski in view of Nishino (US 6,347,083).

Consider claim 3. Szalajski teaches everything claimed as shown above except for the information being transmitted with a higher power based on importance of the information. Nishino teaches a power control arrangement in which information is

transmitted with a higher power if the content of the information is important (Nishino col 2, lines 25-37). It would have been obvious to one of ordinary skill in the art to modify Szalajski to transmit information with a higher power based on importance as taught by Nishino in order to ensure that important transmissions were received.

As to claim 27, note that Szalajski's information is in the form of data packets (fig 1, col 5, lines 20-40).

As to claims 51,57, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

As to claim 64, note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

6. Claims 5,7,12,18,20,21,28,30,35,37,38,40,53,55,59,61,66,68,71,72,74,75, are rejected under 35 U.S.C. 103(a) as being unpatentable over Szalajski in view of Derryberry et al (US 6,498,785).

Consider claims 5,28,30. Szalajski teaches everything claimed as shown above except for the information for a given second station including information identifying the given station. Derryberry teaches a mobile communication system with a shared forward channel in which information for a mobile station includes identifying data (Derryberry see especially col 3, lines 35-50). It would have been obvious to one of ordinary skill in the art to modify Szalajski to use the identifying information as taught by Derryberry in order to ensure that the information was received by the intended mobile.

As to claims 53,59, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

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As to claim 66 note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

Consider claims 7,12,18,20,21,35,37,38,40,75. Szalajski teaches everything claimed except for a controller controlling the information transmittal. Derryberry teaches a mobile communication system in which a radio network controller controls the power control of the system (Derryberry see fig 1, item 112). It would have been obvious to one of ordinary skill in the art to modify Szalajski to use a controller to control the power in order to ensure uniform power control.

As to claims 55,61,72,74, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

As to claim 68 note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

As to claim 71, Szalajski teaches the method wherein the power level with which information is transmitted is selected in dependence on at least one of a parameter of the intended second station and the content of the information (see col 4, lines 27-53, col 6, lines 29-50).

7. Claims 29,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szalajski in view of Nishino as applied to claim 3, further in view of Derryberry et al (US 6,498,785).

Consider claim 29. Szalajski in view of Nishino teaches everything claimed as shown above except for the information for a given second station including information identifying the given station. Derryberry teaches a mobile communication system with a

shared forward channel in which information for a mobile station includes identifying data (Derryberry see especially col 3, lines 35-50). It would have been obvious to one of ordinary skill in the art to modify Szalajski in view of Nishino to use the identifying information as taught by Derryberry in order to ensure that the information was received by the intended mobile.

As to claim 36, Szalajski in view of Nishino teaches everything claimed as shown above except for a controller controlling the information transmittal. Derryberry teaches a mobile communication system in which a radio network controller controls the power control of the system (Derryberry see fig 1, item 112). It would have been obvious to one of ordinary skill in the art to modify Szalajski to use a controller to control the power in order to ensure uniform power control.

Allowable Subject Matter

8. Claim 16 is allowed

9. Claims 6,8-11,22-25,31-34,39,41-49,54,60,67,77-88, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Consider claims 6,8,9,16,22,23,24,31,32,33,34,77,78,79,80. The nearest prior art as shown in Szalajski fails to teach a method of controlling power with which information transmitted by a first station to a plurality of second stations on a common channel, different information being intended for different stations, said method comprising a first mode in which the information is transmitted with a the same power

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and a second mode in which different powers are used for information intended for different second stations.

Consider claims 10,11,25,82,83,84,85. The nearest prior art as shown in Szalajski fails to teach a method of controlling power in which information is transmitted by a first station to a plurality of second stations on a common channel, different information being intended for different stations, said method comprising a mode in which different powers are used for information intended for different second stations, wherein the controller is arranged to send a message to the first station to advise the first station as to the range of power levels to be used to transmit information to the second stations.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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October 28, 2004


NAY MAUNG
SUPERVISORY PATENT EXAMINER